

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**May 25, 2010**

David R. Schanker  
Clerk of Court of Appeals

**NOTICE**

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A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2009AP1135-CR**

**Cir. Ct. No. 2007CF1194**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**JAMIE D. BOWENS,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Milwaukee County: JEFFREY A. WAGNER and JEFFREY A. CONEN, Judges.<sup>1</sup>  
*Affirmed.*

Before Curley, P.J., Kessler and Brennan, JJ.

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<sup>1</sup> The Honorable Jeffrey A. Wagner entered the judgment of conviction and imposed sentence. The Honorable Jeffrey A. Conen entered the order denying Bowens' postconviction motion.

¶1 PER CURIAM. Jamie D. Bowens appeals a judgment convicting him of first-degree intentional homicide and felon in possession of a firearm. He also appeals an order denying his motion for a new trial. Bowens argues that he received ineffective assistance of trial counsel. We affirm.

¶2 To prove a claim of ineffective assistance of counsel, a defendant must show that counsel's performance was deficient and that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Counsel's performance is deficient when it is not "objectively reasonable." *State v. Koller*, 2001 WI App 253, ¶8, 248 Wis. 2d 259, 635 N.W.2d 838. Counsel's deficient performance prejudices the defense when there is "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.*, ¶9 (citation omitted). Stated differently, "[s]howing prejudice means showing that counsel's alleged errors actually had some adverse effect on the defense." *Id.*

¶3 A court need not address "both components of the inquiry if the defendant makes an insufficient showing on one." *Strickland*, 466 U.S. at 697. "In particular, a court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies." *Id.* "If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice ... that course should be followed." *Id.*

¶4 Bowens' claim of ineffective assistance of trial counsel fails because he has not shown that he was prejudiced by counsel's allegedly deficient acts. Bowens contends that his attorney should not have called Jennifer Garcia as a witness for the defense. Even if we agreed that counsel performed deficiently by

calling Garcia, Bowens has not shown that calling Garcia actually had an adverse effect on the defense.

¶5 The State presented overwhelming evidence that Bowens shot and killed Jadrian Parker during a dispute over a gun. The State called four eyewitnesses, all of whom identified Bowens as the person who shot Parker. Dominick Johnson testified that on the evening of the murder, he was at his mother's house with Parker, who was the victim, Ryan Smith, Lance Pinkins, Rashed Hampton and Suave Smith. Johnson testified that Parker refused to return a gun that someone had shown him, causing an argument. Johnson testified that Parker and Pinkins left the house as the argument escalated, so he followed them, along with Hampton and Suave Smith. While they were pursuing Parker and Pinkins, he gave his phone to Hampton, who used it to make several calls.

¶6 Johnson further testified that his mother, Magdalena Goodlow, pulled up in her car to the location where they had caught up to Parker and Pinkins down the street from a church. Johnson testified that his mother tried to break up the dispute, but that Parker was arguing with everyone. Johnson testified that Bowens then arrived in a car, and that he asked for the gun Parker had taken. Bowens got angry because Parker and Pinkins would not return the gun. Bowens attempted to shoot Pinkins, but Bowens' gun jammed, so Bowens hit Pinkins with the gun instead. Bowens then shot Parker, who was only a couple of feet from Bowens. Johnson saw two shots hit Parker, then he turned away. He heard the gun fire three times.

¶7 Goodlow testified that on the night of the murder she received a text message that there was a fight over a gun, so she drove to the scene of the dispute on a street near her home with Jason Davis, who was her boyfriend. She knew all

of the people involved in the argument; her son, Johnson, his friends Hampton and Suave Smith, the victim, Parker, and her god-brother Pinkins. She tried to break up the fight, telling them they were drunk and should stop. She then testified that Bowens, who she did not know, arrived at the scene in a car, that he demanded that the gun be returned and, that when it was not given to him, shot Parker repeatedly at close range.

¶8 Davis testified that he arrived with Goodlow at the scene of the dispute. He testified that he knew all of the people involved, with the exception of Bowens, whom he recognized but did not know personally. He testified that Bowens pulled up in a car, got out, and approached the group holding a gun. Davis testified that he saw Bowens hit Pinkins with the gun and then shoot Parker twice in the chest. Davis testified that after Parker fell over, Bowens walked over to him and shot him four more times in the body.

¶9 Pinkins testified that a large group of people were gathered at Goodlow's house the night of the murder. Johnson and Parker got into an argument over a gun that Parker would not return. Pinkins testified that he left Goodlow's house with Parker to go to the home of Pinkins' "little guy," but never got there because Johnson, Hampton and Suave Smith followed them and stopped them on the street near a church. Bowens then arrived, carrying a gun, and told them to return the gun Parker had taken. Pinkins testified that Bowens pointed the gun at his legs and pulled the trigger, but the gun jammed so he was not shot. He and Bowens began a "tussle" over the gun and, when Bowens gained control of the gun, he stepped back and shot Parker five or six times from two or three feet away.

¶10 In addition to the four eyewitnesses, the State called Frank and Katherine Shaw, from Lanett, Alabama, who both testified that Bowens confessed to them several months after the murder. Frank Shaw testified that Bowens, who he knew as Torrence Green, arrived in Alabama with Shaw's daughter Britany on a bus and that he stayed with him, or other members of his family, for several weeks before Bowens was arrested. Shaw testified that he had never met Bowens before, that he had a good relationship with him, but that he was suspicious that something was not right because Bowens seemed nervous, shook his knee all of the time and did not have identification. Bowens eventually confessed to him that he had murdered a man in Milwaukee, Wisconsin. Shaw testified that he notified authorities, leading to Bowens' arrest. Katherine Shaw, Frank Shaw's wife, also testified that Bowens confessed to her that he killed a man in Milwaukee "over a gun."

¶11 In addition to the testimony of these six witnesses, who either saw Bowens commit the murder or heard Bowens admit committing the murder, the State presented the testimony of Melissa Marchant, an expert witness from the Department of Justice, linking Bowens to the dispute on the night of the murder. Marchant testified she reviewed the cell phone records of Johnson and Bowens and that six calls were made from Johnson's phone to Bowens' phone shortly before the murder, corroborating the witnesses' testimony that Bowens arrived on the scene due to the dispute over the gun. The State also presented physical evidence in the form of shell casings linking Bowens to the crime. A police detective testified that three shell casings were recovered from the murder scene that were fired from the same gun as an older shell casing found near Bowens' garage.

¶12 Simply put, the State presented overwhelming direct and circumstantial evidence that Bowens murdered Parker. Although Bowens' defense was that he was at home preparing for his daughter's birthday party, four witnesses testified for the State that they saw Bowens shoot Parker. Two witnesses from another state, who were completely unconnected to Bowens or the other people involved, testified that Bowens confessed to them. Bowens was also linked to the crime by circumstantial evidence, the shell casing and cell phone records.

¶13 Bowens' claim of ineffective assistance of counsel focuses on the testimony of Garcia, the first witness called by the defense. Garcia identified Bowens as the person who shot Parker, which Bowens contends bolstered the State's case and adversely affected his defense. He contends that "[t]he jury could well have found the state witnesses unbelievable but for the corroboration by the defense witness Jennifer Garcia."

¶14 At the postconviction motion hearing on the claim of ineffective assistance of trial counsel, Bowens' trial attorney explained that he called Garcia because she had called him and told him that she did not see how anybody could see who the shooter had been. He also knew she was combative, based on her behavior during a prior court appearance. Counsel believed she would help Bowens' case, whether she admitted she called him or not, because she would either admit she had called him to say that she did not believe that anybody could see who the shooter was or, if she denied calling him, the jury would not believe her anyway due to her demeanor.

¶15 Regardless of whether counsel's decision to call Garcia constituted deficient performance, an issue we need not decide, our review of the trial

transcripts convinces us that Bowens cannot show prejudice; he cannot show that Garcia's identification of him as the shooter actually had an adverse effect on the defense. To assess whether Garcia's testimony actually had an adverse effect on the defense, we look at her testimony against the backdrop of the other testimony and evidence presented at trial. Garcia was not a credible witness; she was argumentative, she contradicted herself repeatedly and was apparently behaving in such an odd manner that even the prosecutor discounted her testimony in closing. Garcia's brief testimony was inconsequential in the context of the overwhelming case the State built against Bowens. We conclude that Garcia's testimony was simply too lacking in credibility and substance to have prejudiced the defense.

¶16 Bowens argues that Garcia's testimony adversely affected the defense because the State's witnesses had issues relating to credibility. We disagree with Bowens' assessment of the State's witnesses. Bowens contends Johnson lacked credibility because he was smoking marijuana the night of the murder and failed to mention in the statement he originally gave to the police that Bowens had told him to not say anything about the crime. Our review of Johnson's testimony shows that he provided detailed, comprehensive and consistent answers to the questions put to him at trial about everything that occurred the night of the shooting. Bowens questions Goodlow's credibility because she said she could not make a definite identification of Bowens at trial. However, Goodlow identified Bowens from photos shortly after the crime occurred, when her memory was fresh. The fact that she could not identify him with certainty at trial does not undermine her credibility or her identification immediately after the crime occurred. To the contrary, it shows that she carefully answered questions asked of her on the witness stand.

¶17 Bowens argues that Davis's testimony was not credible because he told the police at first that he was not at the scene. The jury was aware of this, however, and was able to assess his testimony in light of this information. Bowens also argues that Pinkins' testimony lacked credibility because he had two prior convictions and had been drinking and smoking the night of the murder, and Frank Shaw's testimony lacked credibility because he had five prior convictions. Again, the jury was made aware of this information and considered it in weighing the credibility of the testimony. Even though any individual witness may have had certain factors undermined or bolstered credibility, taken together the picture painted by all of the witnesses was the same; Bowens shot Parker at close range in a fight over a gun.

¶18 In sum, the State's evidence against Bowens showed beyond a reasonable doubt that he murdered Parker. The witnesses' testimony all led to this conclusion, and the physical evidence presented by the State corroborated the witnesses' testimony. Bowens has not shown that Garcia's identification of him had an adverse effect on his defense because he has not shown that the result of the trial would have been different had she not testified. Therefore, we reject Bowens' claim of ineffective assistance of counsel because he has not shown that he was prejudiced by his attorney's decision to call Jennifer Garcia as a witness.

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

